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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER KARMIS, STEFANOS	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/987,952

**Applicant(s)**

MUSSELWHITE ET AL.

**Examiner**

STEFANOS KARMIS

**Art Unit**

3693

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The following communication is in response to Applicant's amendment filed 16 October 2008.

#### ***Status of Claims***

2. There are no new amendments to the claims. Claims 1-45 are currently pending.

#### ***Response to Arguments***

3. Applicant's arguments filed 16 October 2008 have been fully considered but they are not persuasive.

Applicant argues that the prior art fails to teach the limitation of "adjusting one or more finance fees charged to the financial account for purchase transactions with the selected vendor based on a number of purchase transactions with the selected vendor over a predetermined time" as recited in claim 1. The Examiner respectfully disagrees. The Examiner acknowledges that Maycock fails to teach the adjusting limitation. However, Fowler teaches combo-cards wherein a transaction and/or membership card may have one or more and preferable multiple AAPs and/or other marketing programs (page 11, paragraph 0083). Fowler further teaches a rate calculation for performing transactions at specific merchants including earning points on an escalating scale such as successive transactions at a merchant with a specified time period (page 10, paragraph 0075 and page 12, paragraph 0088). Maycock in view of Fowler fails to teach that the fees are finance fees, instead they are promotional fees. Behrenbrinker teaches a system

for processing financial transactions in which customers receive reduced finance charges based on transaction data associated with a particular balance segment for a particular merchant (column 2, lines 22-33 and column 3, line 21-50). Behrenbrinker teaches that the rules are terms and conditions for each balance segment are predetermined (column 3, lines 51 thru column 4, line 8). Behrenbrinker also teaches that transaction data includes, but is not limited to transaction amount, transaction type, Merchant Category Code, merchant name, merchant number associated with the transaction. Behrenbrinker fails to teach that adjusted finance fee is based on number of transactions over a specified time. However, as stated above that is taught by Fowler in promotions.

Applicant argues that there is no motivation to combine the teachings of Maycock, Fowler and Behrenbrinker. However, the Examiner respectfully disagrees. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Maycock to include adjusting one or more fees to the financial account for transactions with a selected vendor as taught by Fowler because it provides for loyalty between customer and merchant and therefore to increase customer satisfaction, retention and repeat business. Further, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Maycock in view of Fowler for adjusting fees based on number of transaction with vendors to specify that the fees are finance fees as taught by Behrenbrinker because it provides an incentive for establishing a merchant/customer relationship. Also, the number of transaction with a merchant is a type of transaction data which could apply to the transaction data taught by Behrenbrinker.

Examiner also notes that the limitation of “adjusting one or more finance fees charged to the financial account for purchase transactions with the selected vendor based on a number of purchase transactions with the selected vendor over a predetermined time” could also be given a broader interpretation. Specifically, the finance fees charged to the account are adjusted for transactions over a period of time. Therefore, in card transactions, such as a credit card, in which a bill is received monthly, the bill contains adjusted finance fees charged to the account for the transactions that occurred during the month. The claim does not necessarily limit the “finance fee charged to the account” to an interest rate. Instead it could just be the total dollar amount charged to the account based on the interest rate. Therefore the finance fee charged to the account is different based on the purchased during the month. The Examiner suggests amending the claim to focus the interpretation as to what Applicant is arguing.

4. Applicant’s arguments with respect claims 4 and 10-13 are similar to the arguments presented above and therefore the reasoning relied upon above applies to these claims as well.
5. For these reasons, Applicant’s arguments are not persuasive and claims 1-45 remain rejected.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 5-9, 14-17, 19-23, 28-31, 33-37 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maycock, Jr. et al. (hereinafter Maycock) U.S. Publication 2001/0047336 in view of Fowler et al. (hereinafter Fowler) U.S. Publication 2002/0026348 in further view of Behrenbrinker et al. (hereinafter Behrenbrinker) U.S. Patent 7,092,905.

Claims 1, 15 and 29, Maycock teaches a method for managing a financial account, comprising:

providing a consumer with the financial account having a first account component and a second account component, wherein the first and second account components have respective first and second account parameters associated with purchase transactions made by the consumer using the financial account (page 3, paragraph 0032-0034);

receiving an indication from the consumer of a selected vendor to be associated with the first account component (page 3, paragraph 0033);

processing purchase transactions with the selected vendor based on the first account parameter (page 3, paragraph 0033 and page 4, paragraphs 0041-0042);

processing purchase transactions with other vendors based on the second account parameter (page 3, paragraph 0033 and page 4, paragraphs 0041-0042).

Maycock fails to teach adjusting one or more fees charged to the financial account for purchase transactions with the selected vendor based on a number of purchase transactions with the selected vendor over a predetermined period of time. Fowler teaches combo-cards wherein a transaction and/or membership card may have one or more and preferable multiple AAPs and/or other marketing programs (page 11, paragraph 0083). Fowler further teaches a rate calculation

for performing transactions at specific merchants including earning points on an escalating scale such as successive transactions at a merchant with a specified time period (page 10, paragraph 0075 and page 12, paragraph 0088). Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Maycock to include adjusting one or more fees to the financial account for transactions with a selected vendor as taught by Fowler because it provides for loyalty between customer and merchant and therefore to increase customer satisfaction, retention and repeat business.

Maycock in view of Fowler fails to teach that the fees are finance fees. Behrenbrinker teaches a system for processing financial transactions in which customers receive reduced finance charges based on transaction data associated with a particular balance segment for a particular merchant (column 2, lines 22-33 and column 3, line 21-50). Behrenbrinker teaches that the rules are terms and conditions for each balance segment are predetermined (column 3, lines 51 thru column 4, line 8). Behrenbrinker also teaches that transaction data includes, but is not limited to transaction amount, transaction type, Merchant Category Code, merchant name, merchant number associated with the transaction. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Maycock in view of Fowler for adjusting fees based on number of transaction with vendors to specify that the fees are finance fees as taught by Behrenbrinker because it provides an incentive for establishing a merchant/customer relationship. Also, the number of transaction with a merchant is a type of transaction data which could apply to the transaction data taught by Behrenbrinker.

Claim 2, 16 and 30, Maycock fails to teach generating a billing statement reflecting an amount to be paid by the consumer based on the first and second account parameters, wherein the amount to be paid is reduced when based on the first account parameter. Fowler teaches generating a statement (page 5, paragraph 0039) and reducing an amount to be paid based on the account parameter (page 10, paragraph 0075 and page 12, paragraph 0088).

Claims 3, 17 and 31, Maycock teaches wherein the financial account is a credit card account and the consumer may select any vendor that accepts purchases using the credit card account (page 1, paragraph 0013 and page 3, paragraph 0033).

Claims 5, 19 and 33, Maycock teaches wherein the purchase transactions are associated with one of: (i) an internet-based purchase transaction; (ii) a point-of-sale purchase transaction; (iii) a purchase transaction made over a telephone; and (iv) a purchase transaction made using conventional mail (page 2, paragraph 0018-0019 and Figure 2).

Claims 6, 20 and 34, wherein allowing the consumer to select a vendor further comprises: presenting an offer for the financial account to the consumer, wherein the offer includes a request to select a vendor to be associated with the financial account (page 3, paragraph 0033).

Claims 7, 21 and 35, wherein the request includes a list of vendors, and wherein the consumer may select the vendor from the list (page 3, paragraph 0033).



Claims 8, 22 and 36, wherein the request includes a list of vendors, and wherein the selected vendor is not included in the list (page 3, paragraph 0033).

Claims 9, 23 and 37, wherein the financial account includes an available balance that is adjusted based on the purchase transactions with the selected and other vendors (page 3, paragraph 0035).

Claims 14, 28 and 42, Maycock fails to teach adjusting one or more fees charged to the financial account for purchase transactions with the selected vendor based on a number of purchase transactions with the selected vendor over a predetermined period of time. Fowler teaches combo-cards wherein a transaction and/or membership card may have one or more and preferable multiple AAPs and/or other marketing programs (page 11, paragraph 0083). Fowler further teaches a rate calculation for performing transactions at specific merchants including earning points on an escalating scale such as successive transactions at a merchant with a specified time period and reducing fees/providing discounts (page 10, paragraph 0075 and page 12, paragraph 0088). Maycock in view of Fowler fails to teach that the fees are finance fees. Behrenbrinker teaches a system for processing financial transactions in which customers receive reduced finance charges based on transaction data associated with a particular balance segment for a particular merchant (column 2, lines 22-33 and column 3, line 21-50). Behrenbrinker teaches that the rules are terms and conditions for each balance segment are predetermined (column 3, lines 51 thru column 4, line 8). Behrenbrinker also teaches that transaction data includes, but is not limited to transaction amount, transaction type, Merchant Category Code,

merchant name, merchant number associated with the transaction. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Maycock in view of Fowler for adjusting fees based on number of transaction with vendors to specify that the fees are finance fees as taught by Behrenbrinker because it provides an incentive for establishing a merchant/customer relationship. Also, the number of transaction with a merchant is a type of transaction data which could apply to the transaction data taught by Behrenbrinker.

Claims 43-45, wherein adjusting one or more fees includes removing one or more fees charged to the financial account for purchase transactions with the selected vendor based on a number of purchase transactions with the selected vendor over a predetermined period of time (page 10, paragraph 0075 and page 12, paragraph 0088). Maycock in view of Fowler fails to teach that the fees are finance fees. Behrenbrinker teaches a system for processing financial transactions in which customers receive reduced finance charges based on transaction data associated with a particular balance segment for a particular merchant (column 2, lines 22-33 and column 3, line 21-50). Behrenbrinker teaches that the rules are terms and conditions for each balance segment are predetermined (column 3, lines 51 thru column 4, line 8). Behrenbrinker also teaches that transaction data includes, but is not limited to transaction amount, transaction type, Merchant Category Code, merchant name, merchant number associated with the transaction. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Maycock in view of Fowler for adjusting fees based on number of transaction with vendors to specify that the fees are finance fees as

taught by Behrenbrinker because it provides an incentive for establishing a merchant/customer relationship. Also, the number of transaction with a merchant is a type of transaction data which could apply to the transaction data taught by Behrenbrinker.

8. Claims 4, 10-13, 18, 24-27, 32 and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Yun et al. (hereinafter Yun) U.S. Publication 2002/0069122.

Claims 4, 18 and 32, Maycock in view of Fowler teaches associated account parameters with selected merchants as discussed above. Maycock in view of Fowler fails to teach wherein the first account parameter is a first interest rate and the second account parameter is a second interest rate different from the first interest rate. Behrenbrinker teaches a system for processing financial transactions in which customers receive reduced finance charges based on transaction data associated with a particular balance segment for a particular merchant (column 2, lines 22-33 and column 3, line 21-50). Behrenbrinker teaches that the rules are terms and conditions for each balance segment are predetermined (column 3, lines 51 thru column 4, line 8). Behrenbrinker also teaches that transaction data includes, but is not limited to transaction amount, transaction type, Merchant Category Code, merchant name, merchant number associated with the transaction. Yun teaches a financial account management system wherein once account is used to a plurality of account components (credit card types) which have first and second account parameters (interest rates) (page 6, paragraph 0060, page 7, paragraph 0062 and Figure 3). Therefore it would have been obvious to one of ordinary skill in the art at the time of the

Applicant's invention to modify the teachings of Maycock in view of Fowler in further view of Behrenbrinker to include the teachings of Yun because it provides for increased customer satisfaction when processing purchases among available accounts and account parameters.

Claims 10, 24 and 38, Yun teaches applying first fees to the financial account for purchase transactions with a vendor based on the first account parameter (page 6, paragraph 0060, page 7, paragraph 0062 and Figure 3).

Claims 11, 25 and 39, Yun teaches wherein processing purchase transactions by applying second fees to the financial account for purchase transactions with the other vendors based on the second account parameter, wherein the second fees are higher than the first fees (page 6, paragraph 0060, page 7, paragraph 0062 and Figure 3).

Claims 12, 26 and 40, wherein the first and second account parameters are first and second interest rates, respectively, wherein the first interest rate is lower than the second interest rate (page 6, paragraph 0060, page 7, paragraph 0062 and Figure 3).

Claims 13, 27 and 41, wherein the first and second account parameters include first and second finance charges, respectively (page 6, paragraph 0060, page 7, paragraph 0062 and Figure 3).

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEFANOS KARMIS whose telephone number is (571)272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted  
/Stefanos Karmis/  
Primary Examiner, Art Unit 3693  
05 January 2009